F. INVENTORY

The United States Supreme Court has recognized the inventory of an individual's effects, either from his person or vehicle, is an exception to the warrant requirement. A search such as this is made for the purpose of taking an inventory of personal effects, contents of a vehicle or container -- not for the purpose of discovering evidence. Many courts have ruled these "inventory searches" valid since they are conducted in good faith, not as a pretext for a warrantless search for incriminating evidence. In some instances (during an inventory search), an officer or corrections officer will inadvertently discover contraband or evidence of another crime. Courts generally rule that this evidence or contraband is admissible because it was inadvertently discovered and in plain view of the officer.

To date, the Alaska Courts have not recognized the "inventory exception" to the warrant requirement. The Courts have concluded in each of the cases (persons or vehicles) that they have addressed that the officer should have obtained a warrant.

The Courts suggested that the "inventory" and "vehicle" exceptions to the warrant requirement are merely subcategories of the other exceptions to the warrant requirement such as "incident to arrest," emergency, investigatory stops, "prevent the destruction of known evidence," etc.

INVENTORY
SELECTED CASES

ZEHRUNG v State (Search and Seizure) bulletin no. 1. At the time of subject's arrest for failure to appear, he was searched by the arresting officer then delivered to the corrections officer. After the arresting police officer departed, the corrections officer, pursuant to their policy, conducted an inventory of subject's personal effects prior to incarceration. During the inventory, the corrections officer discovered a credit card issued to a person other than the subject. The arresting officer was called back to the jail and determined that the credit card had been stolen three months prior, during a rape/robbery. The Court ruled that the evidence of the credit card was inadmissible because it was discovered "incident to the incarceration" (by the corrections officer) and not by the arresting officer. The officer should have sought a warrant to seize the evidence from the institution.

JEFFERY ANDERSON v State (ZEHRUNG affirmed – right to post bail prior to booking; inevitable discovery doctrine applies because defendant would have been booked anyway) bulletin no. 282. Subject arrested on outstanding F/A warrant; bail $1,000. Officer failed to inform defendant that he would be given a reasonable opportunity to post bail prior to booking. Corrections officer found a Tupper-ware container containing white powder. The container was given to the arresting officer. Laboratory test later confirmed presence of methamphetamine. Officer then informed defendant of his right to bail. As it turned out defendant was unable to post bail and remained in jail for 4 days. Court ruled that ZEHRUNG still applies and that the officer should have informed ANDERSON of his right to post bail prior to booking but also said the evidence could be admitted under "inevitable discovery doctrine" because the evidence would have been found during the booking process.

South Dakota v OPPERMAN (Inventory Search) bulletin no. 8. The contents of a vehicle impounded from a parking lot were inventoried according to police department policy. A small amount of marijuana was discovered in the glove compartment and the evidence of it was used against the owner. The court ruled the evidence admissible because the police department routinely inventoried the contents of all cars impounded to protect the property of the owner as well as to avoid possible civil litigation. The court ruled that the evidence was "inadvertently" discovered during the inventory and was properly admitted. As indicated above, the Alaska Courts of Appeals has not adopted this "vehicle/inventory" exception to Alaska's Constitution.

State v DANIEL (Inventory Search of Impounded Vehicle) bulletin no. 19. Defendant was arrested for DWI and transported from scene by the arresting officer. While the defendant was in route to jail, a second officer conducted an inventory search of the vehicle (as required by the State Administrative Rules per the Commissioner of Public Safety). During the inventory search, a firearm, along with a quantity of drugs was discovered in a closed unlocked attaché case located on the rear seat. The Court ruled this evidence **in**admissible citing that the Administrative Rule which requires such warrantless searches violates the Alaska Constitution, specifically Article 1, Sections 14 and 22, which governs unlawful searches.

REEVES v State (Search Incident to Incarceration) bulletin no. 27. At the time of his arrest for DWI, the subject was searched by the arresting officer then delivered to the corrections officer. Upon subject's arrival, the corrections officer proceeded with the inventory process, at which time a balloon containing a powder substance was discovered. Although the corrections officer said he did not have any idea what the substance was, he requested the arresting officer to return to the jail so that the balloon (and contents thereof) could be released to him. It was later determined that the balloon contained heroin. The Court ruled the evidence **in**admissible since the police officer missed the evidence during the search incident to the arrest and it was not "immediately apparent" to the corrections officer what the balloon contained. The court ruled that the police officer should have obtained a search warrant prior to seizing the balloon from the corrections officer.

PLEASE NOTE: The information obtained from the corrections officer, as well as your observations and knowledge of drug packaging methods, can be used as the basis of your affidavit for a search warrant.

GRAY v State (Inventory Search Subject to Incarceration) bulletin no. 149. A person arrested for a minor misdemeanor offense where bail has been set and the person is given a reasonable opportunity to post bail before being incarcerated, cannot be subjected to remand and booking procedures, although a pat down search is permissible. In this case, the corrections officer ordering the emptying of pockets is not considered part of a pat down. This constituted a search and the drugs found were subsequently suppressed.

State v LANDON (Search of Convicted Person by Corrections Officer Incident to Incarceration in Prison) bulletin no. 217. Drugs were found during a search of person's personal belongings prior to long-term incarceration in a correctional facility. Since this was a long-term incarceration vs. a person being detained in jail who may shortly post bail, the detailed search was upheld. See Reeves v. State.